

TTAB

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #70

Docket: G2119-906603

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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In application of

Automation Consultants, Inc.

Serial No.: 78/002,694

Filed: April 5, 2000

For: THE ACI GROUP

McLean, Virginia
September 17, 2001

REQUEST FOR EXTENSION OF TIME IN WHICH TO FILE BRIEF ON APPEAL

BOX: RESPONSE NO FEE

To the Assistant Commissioner of Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Sir:

Applicant hereby respectfully requests an extension of time to which to file the main Brief of Appellant in the appeal in the subject application.

A Final Rejection was mailed in this application on January 17, 2001, and a timely Notice of Appeal was filed on July 17, 2001. In accordance with 37 CFR §2.142(b)(1), the Brief of Appellant is to be filed within sixty (60) days of July 17, which is September 16, 2001. September 16, 2001, fell on a Sunday, making Monday, September 17, 2001, the deadline for filing the Brief on Appeal.

As stated in Section 1203.02(d) of the Trademark Trial and Appeal Board Manual of procedure (TBMP), an extension of time for filing an appeal brief in an *ex parte* appeal may be granted by the Board upon written request showing good cause for the requested extension. (citing *In re Miller Brewing Co.*, 226 USPQ 666 (TTAB 1985); and *In re Tennessee Walking Horse Breeders' and Exhibitors' Ass'n* (TTAB 1985)).

Good cause exists in the present case in that, approximately at the same time that the Notice of Appeal was filed, Applicant became aware that the Registrant of the mark cited in refusing registration of the present application under Section 2(d), had been acquired by another entity, and it was believed that the acquiring company had ceased use of the mark of the registration ("ACI", Reg. No. 1,702,234). Applicant has continued to monitor and investigate whether use of the ACI mark has ceased, in order to determine whether a valid basis for petitioning to cancel the mark on the grounds of abandonment may exist.

As of this date, Applicant has not seen any evidence of continued or resumed use, but has further not been able to conclusively determine that use has ceased. If it is able to conclude, in the near future, that grounds for a petition for cancellation exist, Applicant would be considering whether to request a stay of this appeal pending an outcome in a cancellation proceeding that may be filed. A successful outcome in any such cancellation proceeding would render this appeal moot.

Accordingly, good cause exists to grant Applicant an extension of time in which to file its main Brief on Appeal, in order to more conclusively determine the status of the use of the mark of the cited registration. Applicant requests that the Board set a date


sixty (60) days from the mailing date of the decision on the Request for Extension of Time, or whatever time period the Board deems to be appropriate.

In the event that the Board determines that this request should be denied as failing to show good cause for the extension, Applicant requests that it be given a period of ten (10) days from the date of such decision in which to file its Brief on Appeal.

No fee is believed to be due in connection with the filing of this Request for Extension of Time, but if a fee is due, authorization is given to charge such fee to Deposit Account No. 501165. A duplicate copy of this paper is filed herewith for Deposit Account charging purposes.

Respectfully submitted,

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